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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 200 and 2700

**[Docket No. FR-5795-F-01]
RIN 2502-AJ24**

Removal of Emergency Homeowners' Loan Program Regulations

AGENCY: Office of the Secretary.

ACTION: Final rule.

SUMMARY: Through this rule, HUD removes regulations for the Emergency Homeowners' Loan Program. The statutory authority to provide emergency assistance to homeowners under this program expired on September 30, 2011. Because these regulations are no longer operative, they are being removed by this final rule. To the extent that assistance made available under this program is still ongoing, the removal of these regulations does not affect the requirements for transactions entered into when these parts were in effect. Assistance made available under the Emergency Homeowners' Loan Program will continue to be governed by the regulations that existed immediately before **[insert date 30 days from the date of publication in the Federal Register]**.

DATES: Effective date: **[Insert date that is 30 days from the date of publication in the Federal Register]**.

FOR FURTHER INFORMATION CONTACT: Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC, 20410; telephone 202-

708-1793 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8389.

SUPPLEMENTARY INFORMATION:

I. Background

On July 2, 1975, the Emergency Housing Act of 1975 (Public Law 94–50) (12 U.S.C. 2701 et seq.) was signed into law. Title I of this statute is the Emergency Homeowners' Relief Act (1975 Act), which conferred on HUD standby authority to insure or make loans to, or make emergency mortgage relief payments on behalf of, homeowners to defray their mortgage expenses (collectively emergency assistance). The goal of the program was to prevent widespread mortgage foreclosures and distress sales of homes by homeowners who had experienced a substantial reduction of income resulting from the temporary involuntary loss of employment or underemployment due to adverse economic conditions. HUD promulgated regulations implementing the 1975 Act on December 30, 1975 (see 40 FR 59866) and codified these regulations in 24 CFR part 2700. This emergency assistance program, quickly put in place by HUD in 1975, was not utilized and, in 1995, as part of HUD's effort to remove outdated, obsolete, or unutilized regulations, HUD removed the regulations in 24 CFR part 2700 from the CFR. (See 60 FR 47263.)

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203) (the Dodd-Frank Act), signed into law on July 21, 2010, reauthorized the 1975 Act, with certain amendments, and the Emergency Homeowners' Loan Program (EHLPP). The Dodd-Frank Act also made available \$1,000,000,000 for HUD to provide emergency mortgage assistance on behalf of homeowners struggling to make mortgage payments due to a substantial reduction of income resulting from the temporary involuntary loss of employment or underemployment due

to adverse economic conditions. In accordance with the 1975 Act, as reauthorized and amended, HUD reinstituted regulations for EHLP on March 4, 2011, at 76 FR 11946, and administered EHLP. (For further information about EHLP, see 76 FR 11946 through 11948.)

The reauthorization of EHLP, however was only for one fiscal year, fiscal year (FY) 2011. September 30, 2011 was the last date upon which HUD could enter into binding agreements with individual mortgagors approved for participation in EHLP. As provided in the March 4, 2011, rule, a binding agreement was considered to have occurred only when a borrower had been approved for participation in this program and funds had been allocated to that borrower, all of which must have occurred on or before September 30, 2011.

This Final Rule

Since authority for HUD to enter into agreements with borrowers to provide emergency assistance under the EHLP expired on September 30, 2011, HUD is proceeding to remove EHLP regulations codified in 24 CFR part 2700.

Emergency assistance provided under EHLP that is still outstanding will continue to be governed by the regulations in effect prior to [insert date 30 days from publication in the Federal Register]. Accordingly, this rule amends 24 CFR 200.1301 (Expiring Programs—Savings Clause) of 24 CFR 200, subpart W (Administrative Matters), and adds a new paragraph (f) to § 200.1301, which preserves the EHLP regulations as in effect prior to the effective date of this final rule and continues to govern any assistance provided under EHLP on or before September 30, 2011.

II. Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a final rule for effect, in accordance with HUD's own regulations on rulemaking in 24 CFR part 10. However, part 10

provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is impracticable, unnecessary, or contrary to the public interest.” (See 24 CFR 10.1.)

HUD finds that public notice and comment are not necessary for this rulemaking because the authority to provide assistance under EHLP expired on September 30, 2011, assistance is no longer being provided under this program and therefore, the regulations are no longer operative. For these reasons, HUD has determined that it is unnecessary to delay the effectiveness of this rule in order to solicit prior public comment.

III. Findings and Certification

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because HUD has determined that good cause exists to issue this rule without prior public comment, this rule is not subject to the requirement to publish an initial or final regulatory flexibility analysis under the RFA as part of such action.

Unfunded Mandates Reform

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA)¹ requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by state, local and tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of UMRA also requires an agency to identify and

¹ 2 U.S.C. 1532.

consider a reasonable number of regulatory alternatives before promulgating a rule.² However, the UMRA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to the APA.³ As discussed above, HUD has determined for good cause that the APA does not require general notice and public comment on this rule and, therefore, the UMRA does not apply to this final rule.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule will not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Environmental Review

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern, or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

List of Subjects

24 CFR Part 200

² 2 U.S.C. 1534.

³ 2 U.S.C. 1532(a).

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 2700

Administrative procedures, Mortgage insurance, Practice and procedure, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, and under the authority of 42 U.S.C. 3535(d), amend title 24, parts 200 and 2700, as follows:

PART 200- INTRODUCTION TO FHA PROGRAMS

1. The authority citation for part 200 continues to read as follows:

Authority: 12 U.S.C. 1702-1715z-21; 42 U.S.C. 3535(d).

2. Revise § 200.1301 to add paragraph (f) to read as follows:

§ 200.1301 Expiring programs—Savings clause.

* * * * *

(f) No new emergency mortgage assistance, emergency mortgage relief loans, advances of credit or emergency mortgage relief payments, or any other type of assistance permitted under the Emergency Housing Act of 1975, title I of the Emergency Homeowners' Relief Act (12 U.S.C. 2701), as amended by section 1496 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203) is being provided under the programs listed below. Any

existing emergency assistance, emergency mortgage relief loans, advances of credit or emergency mortgage relief payments under these programs will continue to be governed by the regulations in effect as they existed immediately before **[insert date 30 days from publication in the Federal Register]** (24 CFR part 2700):

- (1) Part 2700, Emergency Homeowners' Loan Program (12 U.S.C. 2701 et seq.)
- (2) [Reserved]

PART 2700- [Removed]

- 3. Remove part 2700.

Dated: **July 30, 2014**

Helen R. Kanovsky, Acting Deputy Secretary

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